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## EXAMINER'S AMENDMENT AND COMMENTS

### General Non-Formal Matters

1. Remarks, list of claims and letter regarding English language translation for the Schroder reference filed 12 May 2009 in response to Office Action mailed 23 February 2009 is acknowledged and entered.
2. Please note, the United States Patent and Trademark Office (i.e. USPTO) had already supplied English language translation for the Schroder reference as an addendum to the Office Action mailed 23 February 2009.

### Withdrawals in View of Applicant's Remarks

3. In view of remarks filed 12 May 2009, the following Rejection in the Office Action mailed 23 February 2009 is hereby withdrawn:
  - o the obviousness rejection to Claims 1, 3, 7 and 24-25 under 35 U.S.C. § 103(a) over combined teachings from Schröder, (1942. "Die Verwendung der Susswasserschwamme in der Ukraine" Die 3, Umschau Wissenschaft Technik 46: 507-509) in view of Philippe et al (US Patent 7, 078, 047).

### Claims Status

4. Claims 2, 4-6, 8-23 and 26-27 remain cancelled
5. Claims 1, 3, 7 and 24-25 are currently pending and are examined on merits.

### Examiner's Amendment

6. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 C.F.R. §1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone interview on 20 July 2009 with Ms. Sara Kerrane, Applicant's Representative.

### **In the Claims**

Please amend the following Claim as follows:

1. (CURRENTLY AMENDED) A therapeutic composition for treating skin diseases comprising consisting of:

a substantially pure powder of a fresh water sponge, *Spongilla lacustris*, and at least one pharmaceutically acceptable excipient, wherein said therapeutic composition ~~comprises~~ consists of approximately 50% to 60% insoluble material obtained from said *Spongilla lacustris* having a maximum particle size of 0.2 mm of said substantially pure powder of *Spongilla lacustris*.

### **Examiner's Reasons for Allowance**

7. The following is Examiner's statement of reasons for allowance:

The closest art references are:

- Reka Farm (printed from [http://www.reka-farm.ru/prod\\_c.htm](http://www.reka-farm.ru/prod_c.htm) 4/14/2008 4:53:43 PM)

Reka Farm publication teaches, "Badiaga -*Spongilla lacustris* L, are harvested and dried during the summer season, packed and used as a medical remedy in a powdered form. Badiaga in form of "gruel-like mass" after mixing with boiling water is used as powder, ointment or cream for contusions and bruises. Thus, pharmaceutical preparations comprising substantially pure badiaga powder from *S. lacustris* in a pharmaceutically acceptable excipient (i.e., hot water) has been used for over a century for the skin applications. Reka Farm publications, however, does not teach that said pharmaceutical composition consists of approximately 50% to 60% insoluble material obtained from said *Spongilla lacustris* having a maximum particle size of 0.2 mm

- Schröder, (1942. "Die Verwendung der Süßwasserschwämme in der Ukraine" Die 3, Umschau Wissenschaft Technik 46: 507-509. Please see English Language Translation of Record in the file.

Schröder teaches a powder of fresh water sponges, wherein one of the sponge is *Spongilla lacustris* (Page 507, Figure 3; Page 507, Column 2, Line 33). Said powder is obtained by comminuting said fresh water sponge and said powder is soluble in 90%

alcohol (Page 508, Column 1, Lines 1-15). Schröder does not explicitly teach a composition consisting of *Spongilla lacustris* powder, wherein said composition consists of approximately 50% to 60% insoluble material obtained from said *Spongilla lacustris* having a maximum particle size of 0.2 mm of said substantially pure powder of *Spongilla lacustris*.

- US Patent 7, 078, 047 issued to Philippe et al.

Phillippe et al. teach a pharmaceutical composition for skin treatment (See Abstract) and further teach mineral water or floral water to be the excipient (Column 5, Line 11).

The composition that Phillippe et al., teach, however does not consist of approximately 50% to 60% insoluble material obtained from *Spongilla lacustris* having a maximum particle size of 0.2 mm.

- Sipkema, D. et al. 2005. Marine Sponges as Pharmacy. Marine Biotechnology, Volume 7, Pages 142-162.

Sipkema et al., reviewing the pertinent scientific literature teach pharmaceutical applications of sponges by Alexandrian physicians (Column 1, Line 42). Sipkema et al., further recite references teaching that badiaga, especially Russian badiaga is a mixture of 4 different fresh water sponges, namely: *Carterius stepanowi*, *Euspongilla lacustris*, *Ephydatia fluviatilis* and *Spongilla fragilis* (Column 2, Lines 24-31). Note applicant also teaches that badiaga is comprised of more than one sponge species and further teaches that badiaga comprises a myriad of components (¶85, Lines 1-5), while the instantly claimed *Spongilla lacustris* purified powder contains approximately 50% to 60% water-insoluble material (¶68, Line 5).

Thus, none of the references cited *supra* either separately or in combination teach each and every feature of the claimed invention. Consequently, the instantly claimed invention in Claims 1, 3, 7 and 24-25 is neither anticipated, nor is obvious over the combined teachings of any, or all above-cited art references.

8. Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

9. Claims 1, 3, 7 and 24-25 are allowed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (571) 272-0923. The examiner can normally be reached on Monday to Thursday from 7:30 A.M. to 6:00 P.M. (Eastern Standard or Daylight Savings Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached at (571)-272-0925 Monday through Thursday 7:30 A.M. to 6:00 P.M. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (i.e., PAIR) system. Status information for the published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (i.e., EBC) at: (866)-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kailash C Srivastava/  
Examiner, Art Unit 1657

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20 July 2009

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